

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CV

23

80198

FILED
JUL 31 2023
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA

MISC

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J.A. CASTRO,

Plaintiff,

v.

JOHN DOE 1 (a.k.a. "CHETSFORD"), JOHN
DOE 2, JOHN DOE 3, and JOHN DOE 4,

Defendants.

) Case No. **80198**
)
) J.A. CASTRO'S NOTICE OF
) MOTION AND MOTION TO
) COMPEL WIKIPEDIA
) FOUNDATION INC. TO COMPLY
) WITH THIRD-PARTY SUBPOENA

) Principal Case Pending in Northern
) District of Texas, Fort Worth Division,
) Case No. 4:23-cv-613-P

) Date: TBD
) Time: TBD
) Courtroom: TBD
) Judge: TBD

**NOTICE OF MOTION AND MOTION TO COMPEL WIKIMEDIA FOUNDATION
INC. AND ITS COUNSEL OF RECORD:**

Please take notice that on a date to be determined, at a time to be determined, or as soon thereafter as counsel may be heard, in a Courtroom to be determined,, located at 450 Golden Gate Avenue, San Francisco, CA 94102, pursuant to Federal Rules of Civil Procedure 37 and 45, Plaintiff J.A. Castro ("Castro") moves to compel Wikimedia Foundation Inc. ("Wikimedia") to respond to the subpoena to produce documents, information, or objects that was served on we can media foundation Inc. on June 28, 2023, as part of the litigation styled *J.A. Castro v. John Doe 1, John Doe 2, John Doe 3, and John Doe 4*, which is currently pending in the United States District Court for the Northern District of Texas, Case No. 4:23-cv-613-P (the "Main Case").

Defendant John Doe 1, a.k.a. "Chetsford," ("Defendant Chetsford") is an anonymous contributor to Wikipedia, an online encyclopedia operated and managed by Wikimedia Foundation Inc. Defendant Chetsford, with actual malice, published outrageously defamatory accusations and

statements regarding Castro in retaliation for Castro having initiated a civil action against former President Donald J. Trump to challenge his eligibility to hold public office in the United States pursuant to Section 3 of the 14th Amendment to the United States Constitution for having given aid or comfort to the insurrectionists that violently attacked our United States Capitol on January 6, 2021.

In the Subpoena, Castro seeks “a list of all internet protocol addresses used by [Defendant Chetsford] to access his Wikipedia account over the past 12 months. Not a list of all logins; just the IP address(es). This could be a single IP. It does not take more than 5 minutes to pull and review this data.”

Wikimedia untimely objected in boilerplate form that the Subpoena was subject to a right of privacy, contained proprietary information, contained protected information, contained privileged information, was business confidential, contained trade secret, lacked competency, lacked relevance, was inadmissible, contained protected speech, violative of the First Amendment, violative of the Electronic Communications Act 18 U.S.C. §§ 2510 and 2701, not proportional to the needs of Castro, and not in compliance with California Code of Civil Procedure § 1985.3. The only objection Counsel for Defendant Chetsford failed to raise was that it violated the United Nations Universal Declaration of Human Rights.

Castro responded methodically to dismantle the objections. First, Castro explained that Wikimedia does not qualify as any of the listed professional that may possess personal records pursuant to Cal. Civ. Proc. Code § 1985.3(a)(1). As such, the objection was inappropriate. Furthermore, Castro explained that Wikimedia does not provide consumer services. Defendant Chetsford is neither a consumer nor a user of any *commercial* services provided by Wikimedia. Wikimedia does not provide services to Chetsford as contemplated by Cal. Civ. Proc. Code § 1985.3. Therefore, the objection is without legal grounds. Castro further explained that this is a John Doe lawsuit making service on the individual next to impossible. Moreover, Castro can show

compliance with the spirit of the rule given Counsel for Defendant Chetsford's admission that Wikimedia has already informed Chetsford of this action. That would render the purpose of notice behind Cal. Civ. Proc. Code § 1985.3 inapplicable even if a court were to be inclined to agree that it's applicable. Any judgment that it was applicable would be appealed and easily reversed.

Second, Castro explained to Wikimedia that it lacks federal standing to assert free speech or privacy defenses. Wikimedia does not qualify for organizational/associational standing. Defendant Chetsford must assert these defenses in a miscellaneous action to motion to quash the subpoena.

Third, the objections that the subpoena seeks trade secrets, confidential business information, and proprietary information are wholly without merit and, if asserted in court, subject to Rule 11 sanctions as being wholly frivolous and baseless in both fact and law.

Fourth, the objection that the subpoena lacks relevance or is unduly burdensome is also wholly without merit and, if asserted in court, subject to Rule 11 sanctions as being wholly frivolous and baseless in both fact and law. It is the duty of Counsel for Chetsford to demonstrate candor to this Honorable Court. Candor requires valid objections supported by the facts and applicable law; not a blanket boilerplate objection with every objection imaginable regardless of its applicability or relevance.

Wikimedia has produced *no* information.

This Motion is made on the following grounds:

Castro moves this Honorable Court to enforce the Subpoena against Wikimedia who is in possession of identifying information for the purpose of completing service of process of the summons on Defendant John Doe 1, a.k.a. Chetsford. Defendant Chetsford, with actual malice, abused the platform provided by Wikimedia to outrageously defame Castro. Pursuant to local rules, Castro certifies that he has, in good faith, conferred with Defendant Chetsford and the Wikimedia Foundation Inc., who is represented by Benjamin Kleine of Colley LLP, by engaging

in multiple telephonic conferences and exchanges of email for the purpose of resolving the objections to the subpoena and to resolve all other disputed issues without court action. Defendant Chetsford agreed to provide an affidavit confirming he was neither paid by nor coordinated with Donald Trump or any third-party; however, that does not resolve the issue of actual malice.

The parties will submit more detailed meet and confer information as this miscellaneous action progresses. This motion is based upon this Notice of Motion, Motion to Compel, the Joint Statement regarding discovery disagreement, which will be filed pursuant to local rules, and any and all evidence and arguments that may be presented at the hearing of this matter.

Dated: July 27, 2023.

/s/ J.A. Castro

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Plaintiff *Pro Se*

CERTIFICATE OF SERVICE

On July 27, 2023, I served the foregoing document on the interested parties in this action by U.S. Postal Service mail in a sealed envelope. I also served it via electronic mail to counsel of record, Benjamin Kleine. I declare under penalty of perjury under the laws of the United states of America that the above is true and correct. Executed on July 27, 2023, in Mansfield, Texas.

/s/ John Anthony Castro

John Anthony Castro